

SECRETARY OF STATE[721]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 47.1 and 17A.4, the Secretary of State hereby amends Chapter 21, "Election Forms and Instructions," Iowa Administrative Code.

These amendments are necessary to update references and implementation language throughout Chapter 21. These amendments are purely technical in nature and will not have any effect on election administration in the state of Iowa.

These amendments were published under Notice of Intended Action in the Iowa Administrative Bulletin on November 26, 2014, as **ARC 1735C**. No public comments were received. The adopted amendments are identical to those published under Notice of Intended Action.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 47.1.

These amendments will become effective February 25, 2015.

The following amendments are adopted.

ITEM 1. Amend rule **721—21.2(47)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 43.11, 43.19, 43.54, 43.67, 43.78, 44.3, 45.3, 45.4, 46.20, 47.1, and 47.2, ~~sections 53.2, 53.8, 53.17, 53.22, 53.25, and 53.40, as amended by 2009 Iowa Acts, House File 475; sections 53.45, 61.3, 161A.5, 260C.15, and 277.4; sections 260C.15 and 376.4, as amended by 2009 Iowa Acts, House File 475; and sections 376.11 and 420.130.~~

ITEM 2. Amend subrule 21.3(1) as follows:

21.3(1) *Identification documents for persons other than election day registrants.* Unless the person is registering to vote at the polls on election day, precinct election officials shall accept the identification documents listed in Iowa Code section 48A.8 from any person who is asked or required to present identification pursuant to Iowa Code section 49.77 ~~as amended by 2009 Iowa Acts, House File 475.~~

ITEM 3. Amend rule **721—21.3(49,48A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~section~~ sections 48A.7A and section 49.77 as amended by 2009 Iowa Acts, House File 475, and P.L. 107-252, Section 303.

ITEM 4. Amend rule **721—21.4(49)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 49.77 ~~as amended by 2009 Iowa Acts, House File 475.~~

ITEM 5. Amend rule **721—21.7(48A)**, implementation sentence, as follows:

This rule is intended to implement ~~2007 Iowa Acts, House File 653~~ Iowa Code section 48A.7A.

ITEM 6. Amend rule **721—21.25(50)**, first unnumbered paragraph, as follows:

The recount shall be conducted by members of the absentee and special voters precinct board following the provisions of Iowa Code ~~section~~ sections 50.48 as amended by 2009 Iowa Acts, House File 475, Iowa Code section and 50.49 and 721—Chapter 26. The commissioner may use different memory cards for the recount and shall retain the information on the memory cards used in the election pursuant to 721—subrule 22.51(13). The commissioner may also use different election definition files if the commissioner believes the original election definition files were flawed. If the commissioner uses different election definition files for the recount, the commissioner shall also retain the election definition files for the election as required by 721—subrule 22.51(14).

ITEM 7. Amend rule **721—21.25(50)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section ~~50.48 as amended by 2009 Iowa Acts, House File 475, and Iowa Code section 50.49~~ 50.50.

ITEM 8. Amend rule **721—21.202(43,52)**, implementation sentence, as follows:

This rule is intended to implement 2009 Iowa Code Supplement section 43.31 [~~2009 Iowa Acts, House File 475, section 6~~].

ITEM 9. Amend rule **721—21.203(49,52)**, implementation sentence, as follows:

This rule is intended to implement 2009 Iowa Code Supplement section 49.57A [~~2009 Iowa Acts, House File 475, section 32~~].

ITEM 10. Amend rule **721—21.301(53)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section ~~48A.29~~ and sections 48A.26, 48A.29, 48A.37 and 53.25 as amended by 2009 Iowa Acts, House File 475.

ITEM 11. Amend rule 721—21.304(53) as follows:

721—21.304(53) Absentee ballot requests from voters whose registration records are “pending.” A voter who requests an absentee ballot and is assigned a status of “pending” must provide identification pursuant to Iowa Code section 48A.8 as amended by 2009 Iowa Acts, House File 475.

21.304(1) In-person applicants. In-person applicants for absentee ballots assigned a status of “pending” must show identification pursuant to Iowa Code section 48A.8 as amended by 2009 Iowa Acts, House File 475, before casting a ballot. If an in-person applicant provides identification as required by Iowa Code section 48A.8 when casting an absentee ballot in person, the commissioner shall assign the voter’s registration record a status of “active” and provide the voter with an absentee ballot. Voters who are unable to provide identification as required by Iowa Code section 48A.8 shall be offered a provisional ballot pursuant to Iowa Code section 49.81.

21.304(2) By-mail applicants. By-mail applicants for absentee ballots assigned a status of “pending” must either come to the commissioner’s office and show identification pursuant to Iowa Code section 48A.8 as amended by 2009 Iowa Acts, House File 475, or mail a photocopy of identification pursuant to Iowa Code section 48A.8 before the voter’s absentee ballot can be counted by the absentee and special voters precinct board. The commissioner shall mail the voter a notice informing the voter of the requirement to provide one of the identification documents listed in Iowa Code section 48A.8 before the voter’s absentee ballot can be considered for counting by the absentee and special voters precinct board. If a by-mail applicant provides identification as required by Iowa Code section 48A.8, the commissioner shall assign the voter’s registration record a status of “active.”

21.304(3) By-mail absentee voters assigned a status of “pending” who do not provide identification prior to election day. The ballot of a by-mail absentee voter assigned a status of “pending” who has not shown identification in person at the commissioner’s office or provided a photocopy of identification by mail pursuant to Iowa Code section 48A.8 as amended by 2009 Iowa Acts, House File 475, shall be challenged by a member of the absentee and special voters precinct board on election day pursuant to Iowa Code section 53.31. The absentee and special voters precinct board shall immediately mail notice of the challenge to the voter. The notice shall include the deadline for the voter to provide identification pursuant to Iowa Code section 48A.8. If the voter provides identification pursuant to Iowa Code section 48A.8 prior to the time the absentee and special voters precinct board reconvenes to consider challenged absentee ballots pursuant to Iowa Code section 50.22, the voter’s ballot shall be considered for counting by the absentee and special voters precinct board. If the voter does not provide identification pursuant to Iowa Code section 48A.8 prior to the time the absentee and special voters precinct board reconvenes to consider challenged absentee ballots pursuant to Iowa Code section 50.22, the voter’s absentee ballot shall be rejected by the absentee and special voters precinct board. The voter shall be notified of the reason for rejection pursuant to Iowa Code section 53.25 as amended by 2009 Iowa Acts, House File 475.

This rule is intended to implement Iowa Code section sections 48A.8, 53.25 and 53.31 and ~~sections 48A.8 and 53.25~~ as amended by 2009 Iowa Acts, House File 475.

ITEM 12. Amend rule 721—21.305(53), introductory paragraph, as follows:

721—21.305(53) Confirming commissioner's receipt of an absentee ballot on election day. If a voter's name is on the absentee list prepared pursuant to Iowa Code sections 49.72 and 53.19 as amended by 2010 Iowa Acts, Senate File 2196, and the voter appears at the polling place to vote on election day, the precinct election officials may contact the commissioner's office to confirm whether the commissioner has received the voter's absentee ballot. If the precinct election officials are able to confirm either that the commissioner has not received the voter's absentee ballot or that the voter's absentee ballot has been received but cannot be counted due to a defective or incomplete affidavit, the precinct election officials shall permit the voter to cast a regular ballot at the polling place.

ITEM 13. Amend rule **721—21.305(53)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 49.72, 49.81 and 53.19 as amended by 2010 Iowa Acts, Senate File 2196.

ITEM 14. Amend paragraph **21.320(2)“g”** as follows:

g. Requests for absentee ballots through the end of the calendar year. 2009 Iowa Code Supplement section 53.40 as amended by 2010 Iowa Acts, Senate File 2194, permits UOCAVA voters to request the commissioner to send absentee ballots for all elections as permitted by state law. In response to an absentee ballot request in which the UOCAVA voter requests ballots for all elections, the commissioner shall send the applicant a ballot for each election held after the request is received through the end of the calendar year in which the request is received. If the applicant does not request ballots for all elections or does not specify which elections the request is for, the commissioner shall send the applicant a ballot only for federal elections through the end of the calendar year in which the request is received.

(1) and (2) No change.

ITEM 15. Amend rule 721—21.403(81GA, HF2282), parenthetical implementation statute, as follows:

721—21.403(81GA, HF2282 372) Special elections to fill vacancies in elective city offices for cities that may be required to conduct primary elections.

ITEM 16. Amend rule **721—21.403(372)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 372.13(2) as amended by 2006 Iowa Acts, House File 2282, section 2.

ITEM 17. Amend rule 721—21.404(81GA, HF2282), parenthetical implementation statute, as follows:

721—21.404(81GA, HF2282 372) Special elections to fill vacancies in elective city offices for cities without primary election requirements.

ITEM 18. Amend rule **721—21.404(372)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 372.13(2) as amended by 2006 Iowa Acts, House File 2282, section 2.

ITEM 19. Amend paragraph **21.800(1)“c”** as follows:

c. The election shall be held on the first possible special election date for counties set forth in Iowa Code section 39.2, subsection 4, paragraph “*e*,” “*a*,” but no sooner than 84 days after the date upon which notice is given to the commissioner.

ITEM 20. Amend subrule 21.800(2) as follows:

21.800(2) As an alternative to the method of initiating a local option tax election described in subrule 21.800(1), governing bodies of cities and the county may initiate a local option tax election by filing motions with the county auditor pursuant to Iowa Code section 423B.1, subsection 4, paragraph “*b*,” requesting submission of a local option tax imposition, rate change, use change, or repeal to the qualified electors. Within 30 days of receiving a sufficient number of motions, the county commissioner shall

notify affected jurisdictions of the local option tax election date. The election shall be held on the first possible special election date for counties set forth in Iowa Code section 39.2, subsection 4, paragraph ~~“e,”~~ “a,” but no sooner than 84 days after the date upon which the commissioner received the motion triggering the election.

ITEM 21. Amend paragraph **21.800(3)“d”** as follows:

d. The notice of election provided for in Iowa Code section 49.53 ~~as amended by 2009 Iowa Acts, House File 475,~~ shall also be published at the time and in the manner specified in that section.

ITEM 22. Amend paragraph **21.801(1)“a,”** fourth unnumbered paragraph, as follows:

(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45. Counties using special paper ballots which are read by computerized tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25 ~~as amended by 2009 Iowa Acts, House File 475.~~)

ITEM 23. Amend paragraph **21.801(1)“b,”** fourth unnumbered paragraph, as follows:

(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45. Counties using special paper ballots which are read by computerized tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25 ~~as amended by 2009 Iowa Acts, House File 475.~~)

ITEM 24. Amend paragraph **21.801(1)“c,”** fourth unnumbered paragraph, as follows:

(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45. Counties using special paper ballots which are read by computerized tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25 ~~as amended by 2009 Iowa Acts, House File 475.~~)

ITEM 25. Amend paragraph **21.801(1)“d,”** fourth unnumbered paragraph, as follows:

(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45. Counties using special paper ballots which are read by computerized tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25 ~~as amended by 2009 Iowa Acts, House File 475.~~)

ITEM 26. Amend paragraph **21.801(1)“e,”** fourth unnumbered paragraph, as follows:

(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45. Counties using special paper ballots which are read by computerized tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25 ~~as amended by 2009 Iowa Acts, House File 475.~~)

ITEM 27. Amend paragraph **21.801(1)“f,”** fourth unnumbered paragraph, as follows:

(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45. Counties using special paper ballots which are read by computerized tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25 ~~as amended by 2009 Iowa Acts, House File 475.~~)

ITEM 28. Amend paragraph **21.801(1)“g,”** fourth unnumbered paragraph, as follows:

(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45. Counties using special paper ballots which are read by computerized tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25 ~~as amended by 2009 Iowa Acts, House File 475.~~)

ITEM 29. Amend paragraph **21.801(1)“h,”** fourth unnumbered paragraph, as follows:
(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45. Counties using special paper ballots which are read by computerized tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25 ~~as amended by 2009 Iowa Acts, House File 475.~~)

ITEM 30. Amend paragraph **21.801(1)“i,”** fourth unnumbered paragraph, as follows:
(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45. Counties using special paper ballots which are read by computerized tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25 ~~as amended by 2009 Iowa Acts, House File 475.~~)

ITEM 31. Amend paragraph **21.801(1)“j,”** fourth unnumbered paragraph, as follows:
(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45. Counties using special paper ballots which are read by computerized tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25 ~~as amended by 2009 Iowa Acts, House File 475.~~)

ITEM 32. Amend subrule **21.801(2),** fifth unnumbered paragraph, as follows:
(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45. Counties using optical scan ballots which are read by automatic tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25 ~~as amended by 2009 Iowa Acts, House File 475.~~)

ITEM 33. Amend subrule 21.802(2) as follows:

21.802(2) Notice of local vehicle tax election. Not less than 60 days before the date that a local vehicle tax election will be held, the county commissioner of elections shall publish notice of the ballot proposition. The notice does not need to include a sample ballot, but shall include all of the information that will appear on the ballot. The notice of election provided for in Iowa Code section 49.53 ~~as amended by 2009 Iowa Acts, House File 475,~~ shall also be published at the time and in the manner specified in that section.

ITEM 34. Amend rule 721—21.803(82GA,HF2663), parenthetical implementation statute, as follows:

721—21.803(82GA,HF2663 423F) Revenue purpose statement ballots.

ITEM 35. Amend subrule **21.803(1),** last unnumbered paragraph, as follows:

(Insert here the revenue purpose statement that was adopted by the school board and that states the intended uses of the funds by the school district. The use or uses must be among the approved uses of the tax that are authorized by ~~2008 Iowa Acts, House File 2663, section 29~~ Iowa Code chapter 423F.)

ITEM 36. Amend subrule **21.803(2),** sixth unnumbered paragraph, as follows:

(Insert here the revenue purpose statement that was adopted by the school board and that states the intended uses of the funds by the school district. The use or uses must be among the approved uses of the tax that are authorized by ~~2008 Iowa Acts, House File 2663, section 29~~ Iowa Code chapter 423F.)

ITEM 37. Amend rule **721—21.803(423F)**, implementation sentence, as follows:
This rule is intended to implement ~~2008 Iowa Acts, House File 2663, section 29~~ Iowa Code section 423F.3.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/21/15.